

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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DANIEL VANDERKODDE,

Plaintiff,

v.

MARY JANE M. ELLIOTT, P.C., and  
LVNV FUNDING LLC,

Defendants.

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Case No.

Hon.

Theodore J. Westbrook (P70834)

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**COMPLAINT**

**INTRODUCTION**

1. Plaintiff brings this action against the defendant debt collectors, seeking damages and equitable relief, to redress Defendant's violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 *et seq.*, and the Michigan Regulation of Collection Practices Act ("MRCPA"), M.C.L. § 445.251 *et seq.*

2. Subsequent to obtaining a judgment in a collection lawsuit against Plaintiff,

Defendants have collected and attempted to collect money from Plaintiff that exceeds an amount allowed by law, misrepresented the amount owed by Plaintiff, and violated the FDCPA and Michigan law.

### **JURISDICTION AND VENUE**

3. This Court has jurisdiction under 15 U.S.C. § 1692k(d) (FDCPA), and 28 U.S.C. §§ 1331 and 1337. This Court has supplemental jurisdiction regarding Plaintiff's state law claims under 28 U.S.C. § 1367.

4. Venue in this judicial district is proper because Defendants transact business here, the pertinent events took place here, and Plaintiff resides here.

### **THE PARTIES**

5. Plaintiff Daniel VanderKodde is a natural person residing in Kent County, Michigan. Mr. VanderKodde is a "consumer" and "person" as the terms are defined and used in the FDCPA. Mr. VanderKodde is a "consumer," "debtor" and "person" as the terms are defined and used in the MRCPA.

6. Defendant Mary Jane M. Elliott, P.C. ("Elliott") is a Michigan professional corporation, doing business at 24300 Karim Boulevard, Novi, Michigan 48375. Elliott is a law firm the primary business of which is the collection of consumer debts; i.e., debts incurred primarily for personal, family, or household purposes. Elliott uses interstate commerce and the mails in a business the principal purpose of which is the collection of debts. Elliott regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. Elliott is a "debt collector" as the term is defined and used in the FDCPA. Elliott is a "regulated person" as the term is defined and used in the MRCPA.

7. Defendant LVNV Funding LLC ("LVNV") is a Delaware limited liability

company. The registered agent for LVNV is Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808. LVNV is engaged in the business of purchasing and collecting defaulted and charged off consumer debts. LVNV regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. LVNV is a “debt collector” as the term is defined and used in the FDCPA. LVNV is a “regulated person” as the term is defined and used in the MRCPA.

### FACTUAL ALLEGATIONS

8. Mr. VanderKodde had a credit account with GE Capital which he used to purchase goods or services for personal, family, and household purposes. Any resulting obligation of Mr. VanderKodde to pay money was a “debt” as the term is defined and used in the FDCPA and MRCPA.

9. Mr. VanderKodde’s GE Capital account went into default. GE Capital charged off and sold the account to Defendant LVNV on November 28, 2007.

10. Defendant LVNV placed Mr. VanderKodde’s account with Defendant Elliott for collection.

11. On or about December 28, 2011, Elliott filed a debt collection lawsuit on behalf of LVNV and against Mr. VanderKodde in the 62B District Court for the State of Michigan, Case No. 11-6601-GC (“VanderKodde Lawsuit”).

12. On or about March 28, 2012, a consent judgment was entered in the VanderKodde Lawsuit on behalf of LVNV and against Mr. VanderKodde in the amount of \$4,784.39.

13. Mr. VanderKodde was unable to make all of the payments set out in the consent judgment.

14. Elliott and LVNV have attempted to collect, from Mr. VanderKodde, directly or indirectly, more money than they are entitled to collect.

### **CLAIMS FOR RELIEF**

#### **Count 1 – Fair Debt Collection Practices Act**

15. Plaintiff incorporates the foregoing paragraphs by reference.

16. Each defendant has violated the FDCPA. Specifically:

- a) Defendants violated 15 U.S.C. § 1692e; and
- b) Defendants violated 15 U.S.C. § 1692f.

**Wherefore,** Plaintiff seeks:

- a) Actual damages pursuant to 15 U.S.C. § 1692k;
- b) Statutory damages pursuant to 15 U.S.C. § 1692k;
- c) Costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k; and
- d) Such further relief as the court deems just and proper.

#### **Count 2 – Michigan Regulation of Collection Practices Act**

17. Plaintiff incorporates the foregoing paragraphs by reference.

18. Each defendant has violated the MRCPA. Specifically:

a) Defendants violated M.C.L. § 445.252(e) by making an inaccurate, misleading, untrue, or deceptive statement or claim in a communication to collect a debt; and

b) Defendants violated M.C.L. § 445.252(f) by misrepresenting in a communication with a debtor the following: (i) the legal status of a legal action being taken or threatened, and (ii) the legal rights of a creditor or debtor.

**Wherefore,** Plaintiff seeks:

- a) Actual damages, trebled, pursuant to M.C.L. § 445.257;
- b) Statutory damages, trebled, pursuant to M.C.L. § 445.257;
- c) Injunctive relief, pursuant to M.C.L. § 445.257;
- d) Declaratory relief, pursuant to M.C.L. § 445.257;
- e) Reasonable attorney's fees and court costs pursuant to M.C.L. § 445.257;

and

- f) Such further relief as the Court deems just and proper.

Respectfully submitted,

Dated: March 3, 2017

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